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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,693	04/25/2000	James D. McCarten		8544
28778	7590	07/02/2004		
JOHNSON & STAINBROOK, LLP 3558 ROUND BARN BLVD., SUITE 203 SANTA ROSA, CA 95403				

EXAMINER
A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/557,693	<b>Applicant(s)</b> MCCARTEN, JAMES D.	
	<b>Examiner</b> Phi D A	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 24-26, 28 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-26, 28 and 30-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 24, 26, 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Richter (3026651).

Richter (figures 3a, 4, 11 ) shows a strutless building module comprising a polygonal member (figure 4, the shape at the surrounding the center connector 20) having a center, an exterior surface, an interior surface, a lower edge , a plurality of substantially flat angles sides, a plurality of faces each one of which has an outer edge intersecting one of the sides and inclined upwardly from the side so that the faces converge in a point at substantially the center of the polygonal member (located at connection 20, figure 4), each of the angles sides including means (figure 3A) such that each of the angles sides may be connected to at least one angled side of an adjacent module, a center connector (20) disposed in the center of the polygonal member, the modules forming a domical structure (figure 5) in which the modules are connected at their respective angles sides, the center connector comprising a center connecting bolt (78, figures 10-11), a center connecting washer (20, figure 10) positioned over the center connecting bolt, the bolt depending downwardly from the interior surface of the module when the module is laid flat on its lower edge, the polygonal member being a hexagon (figure 4), a disc member (figures 6-7), the disc being substantially circular and concentric with center connector washer, said disc having a convex side and a concave side, the convex side in approximation with the interior

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surface of the module, the disc member having a circumference that engages the sides of the module.

3. Claims 24, 31-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Richter (3026651).

Higson (figure 1, 5, 11-12) shows a strutless building module comprising a polygonal member (figure 5) having a center, an exterior surface, an interior surface, a lower edge, a plurality of substantially flat angled sides, a plurality of faces each one of which has an outer edge intersecting one of the sides and inclined upwardly from the side so that the faces converge in a point at substantially the center of the polygonal member, each of the angled sides including means (figure 5) such that each of the angled sides may be connected to at least one angled side of an adjacent module, a center connector (24, 26, figures 11-12) disposed in the center of the polygonal member, the modules forming a domical structure (figure 1) in which the modules are connected at their respective angled sides, a disc member (figures 80, 78), the disc being substantially circular and concentric with center connector washer, said disc having a convex side and a concave side, the convex side in approximation with the interior surface of the module, the disc member having a circumference that engages the sides of the module.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 25, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richter (3026651).

Richter shows all the claimed limitations except for the angles sides depending downwardly from the exterior surface of the polygonal at an angle in the range of 64 to 74 degrees, each of the surfaces inclined upwardly from its outer edge to the center of the module at angle in the range of eight to eighteen degrees.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Richter to show the angles sides depending downwardly from the exterior surface of the polygonal at an angle in the range of 64 to 74 degrees, each of the surface inclined upwardly from its outer edge to the center of the module at angle in the range of eight to eighteen degrees because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art, In re Aller, 105 USPQ 233.

6. Claim 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higson (4736551).

Higson shows all the claimed limitations except for the disc member being fabricated from polarized transparent material.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Higson to show the disc member being fabricated from polarized transparent material because it would enable better lighting of the interior of the dome with the entry of sunlight into the dome structure.

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***Response to Arguments***

7. Applicant's arguments with respect to claims 24-26, 28, 30-33 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different building modules designed forming building structures when assembled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Phi Dieu Tran A

6/25/04